

## Message Text

PAGE 01 PANAMA 02746 221402 Z

46

ACTION ARA-17

INFO OCT-01 ADP-00 SSO-00 NSCE-00 INRE-00 USIE-00 PM-07

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DODE-00 PRS-01 PA-03 IO-12 RSR-01 /083 W

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O R 221253 Z MAY 73

FM AMEMBASSY PANAMA

TO SECSTATE WASHDC IMMEDIATE 7503

INFO AMEMBASSY BUENOS AIRES

SECRET PANAMA 2746

BUENOS AIRES FOR KUBISCH.

E. O. 11652: XGDS

TAGS: PFOR, PN, PQ, US

SUBJ: CANAL TREATY NEGOTIATIONS.

REF: STATE 096148

1). SUMMARY: TACK URGES U. S. RESUME NEGOTIATIONS IN PANAMA FOR PURPOSE AGREEING ON FUNDAMENTAL PRINCIPLES. HE INSISTS SUCH AGREEMENT DOES NOT EXIST, CITES INCONSISTENCIES AND AMBIGUITIES IN ANDERSON LETTER OF FEB. 23 TO MAKE HIS POINT AND STATES DETAILS CANNOT BE NEGOTIATED UNTIL PRINCIPLES CLEAR. HE PRAISES STATEMENT ON PANAMA IN PRESIDENT NIXON'S 1973 REPORT TO CONGRESS.

2) SPECIFICALLY TACK MAKES CLEAR

A) PANAMA WILL NOT ACCEPT WHAT AMOUNTS TO REVISION OF 1903 CONVENTION BUT THAT IT MUST BE ENTIRELY NEW TREATY UNDER WHICH PANAMA HAS COMPLETE JURISDICTION AND U. S. HAS NONE. PANAMA WILL NOT ACCEPT A " CANAL AREA" TO REPLACE 9/6210 ZONE" IF IT IS INTENDED U. S. HAVE ANY JURISDICTION WHATEVER IN FORMER.

B) CONCEPT OF PERPETUITY MUST BE ELIMINATED AND PANAMA WILL NOT ACCEPT ANY TERM FOR LOCK CANAL THAT EXTENDS MUCH

SECRET

PAGE 02 PANAMA 02746 221402 Z

BEYOND THE YEAR 2000. PANAMA WILL NOT ACCEPT SUBJECTIVE TESTS ON DURATION SUCH AS SPECIAL IMPORTANCE OF CANAL TO U. S.

C) PANAMANIAN JURISDICTION MUST BE COMPLETE. IN LEGAL LANGUAGE FOREIGN MINISTER IS SAYING PANAMA WILL NOT ACCEPT SCINTILLA OF U. S. JURISDICTION BUT HE AGREES PRESENT U. S. JURISDICTION MAY BE PHASED OUT GRADUALLY BUT WITHOUT DELAY.

D) LAND AND WATER ARE INSEPARABLE FROM JURISDICTION. FOREIGN MINISTER ASKS WHETHER U. S. CANAL IS TO FUNCTION IN TERRITORY WHICH IS INTEGRAL PART OF PANAMA OR IN TERRITORY IN WHICH PANAMANIAN JURISDICTION CURTAILED. FOREIGN MINISTER MAKES CLEAR PANAMA WILL ACCEPT ONLY FORMER.

E) PANAMA WANTS TO PARTICIPATE IN ALL FACETS OF OPERATION ADMINISTRATION AND PROTECTION OF CANAL.

F) ON EXPANSION WITH EITHER SEA LEVEL CANAL OR THIRD LOCKS PANAMA WILL NOT GRANT OPTION TO U. S. BUT WILL INSIST ON FIRM COMMITMENT THAT ROUTE FOR SEA LEVEL CANAL MUST BE CHOSEN BY PANAMA, AND EXPANDED CANAL WILL BE UNDER COMPLETE JURISDICTION OF PANAMA WITH NO U. S. MILITARY BASES.

G) WITH RESPECT OTHER TREATIES PANAMA FULLY ACCEPTS UN CHARGER AND CONSIDERS 1903 CONVENTION INCONSISTENT WITH IT. OAS CHARTER SUBORDINATE UN CHARTER. FOREIGN MINISTER ASSERTS THAT PANAMA HAS ALREADY DETERMINED APPLICABILITY TO ZONE OF TREATY OF TLALEOCL ( DESPITE ARTICLE III OF 1903 CONVENTION), CONSIDERS 1914 TREATY WITH COLOMBIA WITHOUT APPLICABILITY AND DISMISSES WITH DISDAIN HAY- PAUNCEFOTE TREATY AS REPEATEDLY VIOLATED BY U. S. WITHOUT PROTEST FROM UK.

3) COMMENT:

A) FOREIGN MINISTER' S LETTER CONTAINS NO SURPRISES BUT THIS IS BELIEVED BE FIRST TIME NEGOTIATING POSITION PRESENT GOP HAS BEEN STATED SO CLEARLY. LETTER AVOIDS MAKING UNFOUNDED POINTS TACK MADE IN SPEECH TO CATHOLIC CLERGY ( PANAMA 2620) ON NON- VALIDITY AB INITION OF 1903 CONVENTION OR RIGHT OF PANAMA TO DENOUNCE CONVENTION BECAUSE OF ALLEGED U. S. VIOLATIONS.

B) TACK' S REPLY INDICATES MORE UNITY AND SELF- ASSURANCE  
SECRET

PAGE 03 PANAMA 02746 221402 Z

ON PANAMANIAN SIDE THAN HAS BEEN EVIDENT HERETOFORE BUT INFERS LACK OF CONFIDENCE IN U. S. STATEMENTS AND OFFERS AND REQUESTS CLARIFICATION ON MAJOR POINTS. SUPPORT PANAMA RECEIVED DURING UNSC MEETING UNDOUBTEDLY HAS MUCH TO DO WITH PANAMANIAN SELF- ASSURANCE.

C) IN SUBSTANCE FOREIGN MINISTER IS STATING NEGOTIATIONS ON LOCK CANAL CONCERN ARRANGEMENTS FOR COMPLETE WITHDRAWAL OF U. S. BY END OF CENTURY AND ORDERLY TRANSFER TO PANAMA OF LOCK CANAL OPERATION. PANAMA IS WILLING TO TALK ABOUT CONSTRUCTION BY THE U. S. OF THIRD SET OF LOCKS OR A SEA LEVEL CANAL TO EXPAND CAPACITY BUT ONLY UNDER COMPLETE PANAMANIAN JURISDICTION AND PROTECTION AND ON THE BASIS OF ABSOLUTE NEUTRALITY.

D) TACK INSISTS THAT MAJOR IMPEDIMENT TO COMPLETION OF TREATY NEGOTIATIONS IS DIFFERENCE BETWEEN TWO SIDES ON FUNDAMENTAL PRINCIPLES AND THAT PANAMA CANNOT ACCEPT A NEW TREATY UNLESS IT IS BASED ON SUCH GENERALLY ACCEPTED PRINCIPLES. PANAMA WANTS THE U. S. TO ACCEPT THAT THE CANAL ZONE IS AN INTEGRAL PART OF PANAMANIAN TERRITORY OVER WHICH PANAMA IS SOVEREIGN AND SHOULD THEREFORE HAVE COMPLETE JURISDICTION. NEW TREATY MUST TACK STATES " IN TRUTH RESPECT ( PANAMA'S ) NATIONAL IDENTITY AND NATIONAL DIGNITY." BECAUSE PRESIDENT NIXON'S STATEMENT ON PANAMA IN HIS RECENT REPORT TO THE CONGRESS SUPPORTS THESE PRINCIPLES TACK ACCEPTS AND APPLAUDS IT. THIS TACK WANTS TO NEGOTIATE AS IF 1903 CONVENTION DID NOT EXIST. USG HAS INSISTED THAT NEGOTIATIONS MUST START FROM STATUS QUO AND THEREFORE HAS BEEN UNABLE TO ACCEPT FULLY THESE PRINCIPLES IN A NEW TREATY. WE HAVE URGED THE PANAMANIANS TO NEGOTIATE ON DETAILS WITH THE OBJECTIVE OF AN AGREEMENT POLITICALLY ACCEPTABLE IN U. S. PANAMA HAS BEEN UNWILLING TO NEGOTIATE ON THAT BASIS. TACK BELIEVES HIS POSITION IS THE INTERNATIONALLY ACCEPTABLE ONE, THAT IT WAS FULLY SUPPORTED BY OTHER NATIONS AT THE UN SECURITY COUNCIL MEETING, AND THAT U. S. WILL COME TO ACCEPT IT. IT IS BECAUSE THE EMBASSY DOUBTED THAT THE DIFFERENCE IN NEGOTIATING APPROACH BETWEEN U. S. AND PANAMA COULD BE RESOLVED IN ANY REALISTIC TIME FRAME THAT WE RECOMMENDED MAKING SIGNIFICANT BUT UNILATERAL CHANGES IN THE RELATIONSHIP. WE CONSIDERED THAT PANAMA MIGHT ACCEPT THESE PIECemeAL CHANGES WHICH WOULD LEAD OVER TIME

SECRET

PAGE 04 PANAMA 02746 221402 Z

TO A NEW RELATIONSHIP, EVEN THOUGH IT WERE UNABLE TO ACCEPT THEM IN A NEW GENERAL TREATY THAT DID NOT FIRST ENUNCIATE BROAD GENERAL PRINCIPLES.

E) WHILE UNSC MEETING UNDOUBTEDLY HAS INCREASED GOP CONFIDENCE OF INTERNATIONAL SUPPORT, TACK'S URGING THAT THE U. S. NEGOTIATORS RETURN PROMPTLY SUGGESTS THAT HE NEEDS TO DEMONSTRATE TO DOMESTIC OPINION THAT NEGOTIATIONS ARE PROCEEDING. THIS IS NOT A SIGNIFICANT GOP VULNERABILITY SINCE U. S. ALSO MUST DEMONSTRATE TO PANAMANIAN AND WORLD OPINION OUR WILLINGNESS TO PURSUE NEGOTIATIONS.

F) TACK'S LETTER ALSO CONTAINES UNDERLYING HINT OF SOME FLEXIBILITY AND WILLINGNESS TO COMPROMISE, E. G., RELAXATION OF RIGID POSITION ON TERMINATION DATE AND AVOIDS STRIDENT ABRASIVE TONE SO COMMON IN GOP COMMUNICATIONS.

G) TACK HAS TAKEN THREE MONTHS TO REPLY TO AMBASSADOR ANDERSON'S LETTER. WE PRESUME TACK IS WRITING FOR EVENTUAL PUBLICATION. PLAINLY, WE HAVE SOME TIME TO DEVELOP APPROPRIATE RESPONSE. DEPARTMENT HAS INITIATED REVIEW U. S. CANAL POLICY. TACK'S LETTER SHOULD BE ACKNOWLEDGED. BUT DECISION ON WHETHER TO RESPOND POINT- BY- POINT TO TACK SHOULD AWAIT COMPLETION REVIEW.

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## Message Attributes

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